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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,089	01/15/2002	Allan Ginsburg	033323-002	1255
21839	7590	11/15/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			KRAMER, JAMES A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/045,089	GINSBURG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James A. Kramer	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 09 August 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Grosh et al.

Grosh et al teaches a system and method for information valuation, negotiation and transaction. Referencing Figure 2, Grosh et al. starts with a pricing model which is then configured for particular circumstances (column 6; lines 24-26) (determine price for units based on predetermined pricing considerations). The pricing model is adjusted based on various dimensions and factors. Examiner notes that these dimensions and factors include a performance measurement (for example the Quality dimension; column 4; line 65)

Grosh et al. goes on to teach the pricing models or protocols may be customized to suit a particular negotiation stance (column 7; lines 1-2) combined or recombined in any fashion to produce a desired pricing effect (column 4, lines 10-14). Examiner notes this represents the ability to generate scenarios based on a buyer's criteria (i.e. implement different dimensions and factors based on the buyer's stance).

Grosh et al. teaches the pricing model defined under circumstances such as a particular geographic region (column 6; lines 22-36). Examiner notes this represents the extent of an audience to which the unit will be exposed. In addition, Grosh et al. teaches price defined by the demand, e.g. dynamically ascertained by the number of hits within a particular time (clearly illustrating the concept of altering price based on extent of audience).

Grosh et al. teaches the dimensions that effect price include volume (e.g. starting at column 3; line 63) (total number of units); prior, which includes any information about the buyer (i.e. buyer history, buyer category) (e.g. starting at column 4; line 43).

Grosh et al. teaches that the seller and buyer need not be present to perform the negotiation, a robot or intelligent agent (column 6; lines 60-65). Grosh et al. further gives several examples of the negotiation process. Examiner references the example starting on column 8; line 22 (this servers only as an example and not as the only teaching), where a person seeks to purchase a magazine. Grosh et al. teaches if the magazine is TIMELY but no in DEMAND a subscriber may obtain a duplicate copy and avoid DELIVERY surcharges. If the magazine is in DEMAND and immediate DELIVERY is requested the pricing unit maybe be greater. Examiner notes that this clearly represents a value-based price scheme, where the seller maximizes profits through economic factors to develop a dynamic pricing scheme in order to meet a buyer's criteria. Examiner further notes that the dimensions and factors of Grosh et al. enable the seller to manage yields using function of price adjustment and fuzzy rules.

Claims 12-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Dedrick.

Dedrick teaches a method and apparatus for providing electronic advertisements to end users in a consumer best-fit pricing manner. Dedrick teaches a device to monitor consumer interaction with unit of information being consumed (column 4; lines 20-25). Examiner notes that this represents a performance measurement system.

Dedrick further teaches a consumer scale in which a price is determined based on a value an advertiser has for having their ad viewed (predetermined pricing consideration) (column 5; lines 20-30). Dedrick further teaches that the advertiser is presented with and selects the

advertising plan which meets their desired target audience (scenario planner) (column 5; lines 30-55). Examiner notes that this includes a budget of the advertiser.

***Response to Arguments***

Applicant's arguments filed 8/9/04 with regard to claims 1-11 have been fully considered but they are not persuasive.

Applicant asserts that bandwidth of a download is related to the quality of a product and not the medium in which it is used. Examiner disagrees and asserts that bandwidth represents the quality of the medium or the server in which the product is served.

Applicant asserts that a pricing model is not a scenario planner. Examiner disagrees and believes that various pricing models are in fact various scenarios.

Applicant's arguments with respect to claims 12-21 have been considered but are moot in view of the new ground(s) of rejection and amendment.

***Conclusion***

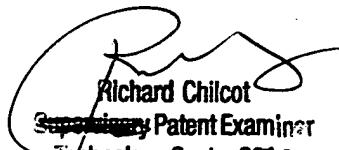
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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